

Under clause 8 of Rule XII, executive communications were taken from the Speaker's table as follows:

COMMUNICATION 01696 from the

Director, Defense Procurement and Acquisition Policy, Department of Defense

transmitting

the Department's final rule - Defense Federal Acquisition Regulation Supplement; Contractor Performance of Security-Guard Functions [DFARS Case 2004-D032] Received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A).

Referred to the Committee on Armed Services. April 20, 2005.

Submission of Federal Rules Under the Congressional Review Act

AS
R00070
TO 1746

☐ President of the Senate

☒ Speaker of the House of Representatives

☐ GAO

Please fill the circles electronically or with black pen or #2 pencil.

1. Name of Department or Agency

Department of Defense

2. Subdivision or Office

OUSD(AT&L)DPAP(DAR)

3. Rule Title

Contractor Performance of Security-Guard Functions

4. Rule Identification Number (RIN) or Other Unique Identifier (if applicable)
DFARS Case 2004-D032

5. Major Rule ☐ Non-major Rule ☒

6. Final Rule ☒ Other ☐

7. With respect to this rule, did your agency solicit public comments? Yes ☐ No ☐ N/A ☒

8. Priority of Regulation (fill in one)

☒ Economically Significant; or
Significant; or
Substantive, Nonsignificant

☐ Routine and Frequent or
Informational/Administrative/Other
(Do not complete the other side of this form
if filled in above.)

9. Effective Date (if applicable) March 11, 2005 (estimated)

10. Concise Summary of Rule (fill in one or both) attached ☒ stated in rule ☐

Submitted by: Deidre A. Lee (signature)

MAR 14 2005

Name: Deidre A. Lee

Title: Director, Defense Procurement and Acquisition Policy

For Congressional Use Only:

Date Received: _____

Committee of Jurisdiction: _____

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MAR 30 PM 3:44
SPEAKER'S ROOMS
U.S. HOUSE OF REPS.

	Yes	No	N/A
A. With respect to this rule, did your agency prepare an analysis of costs and benefits?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
B. With respect to this rule, at the final rulemaking stage, did your agency			
1. certify that the rule would not have a significant impact on a substantial number of small entities under 5 U.S.C. § 605(b)?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
2. prepare a final Regulatory Flexibility Analysis under 5 U.S.C. § 604(a)?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
C. With respect to this rule, did your agency prepare a written statement under § 202 of the Unfunded Mandates Reform Act of 1995?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
D. With respect to this rule, did your agency prepare an Environmental Assessment or an Environmental Impact Statement under the National Environmental Policy Act (NEPA)?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
E. Does this rule contain a collection of information requiring OMB approval under the Paperwork Reduction Act of 1995?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
F. Did you discuss any of the following in the preamble to this rule?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
• E.O. 12612, Federalism	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
• E.O. 12630, Government Actions and Interference with Constitutionally Protected Property Rights	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
• E.O. 12866, Regulatory Planning and Review	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
• E.O. 12875, Enhancing the Intergovernmental Partnership	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
• E.O. 12988, Civil Justice Reform	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
• E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
• Other statutes or executive orders discussed in the preamble concerning the rulemaking process (please specify)			

(Billing Code 5001-08-P)

DEPARTMENT OF DEFENSE

48 CFR Part 237

[DFARS Case 2004-D032]

**Defense Federal Acquisition Regulation Supplement;
Contractor Performance of Security-Guard Functions**

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 324 of the National Defense Authorization Act for Fiscal Year 2005. Section 324 conditionally extends the expiration date of DoD's authority to enter into contracts for the performance of security-guard functions at military installations or facilities to meet the increased need for such functions since September 11, 2001.

EFFECTIVE DATE: *[Date of publication in Federal Register]*.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Schulze, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062. Telephone (703) 602-0326; facsimile (703) 602-0350. Please cite DFARS Case 2004-D032.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS 237.102-70 to implement Section 324 of the National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375). Section 324 amends Section 332 of Public Law 107-314 to extend DoD's authority to enter into contracts for security-guard functions at military installations or facilities, provided DoD submits a report to Congress by December 1, 2005, that addresses DoD's use of this authority and includes a plan for meeting security-guard requirements on a long-term basis in a manner consistent with applicable law.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of DoD. Therefore, publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2004-D032.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 237

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR Part 237 is amended as follows:

1. The authority citation for 48 CFR Part 237 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 237—SERVICE CONTRACTING

2. Section 237.102-70 is amended by revising paragraph (d)(3) to read as follows:

237.102-70 Prohibition on contracting for firefighting or security-guard functions.

* * * * *

(d) * * *

(3) Contract performance will not extend beyond December 1, 2005. Section 324 of Public Law 108-375 permits an extension of the period for contract performance through September 30, 2006, if DoD submits a report and plan to Congress on the use of this authority. See PGI 237.102-70(d)(3) for information on the reporting requirement.